99TH CONGRESS
2d Session

SENATE

TREATY DOC.
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ILO CONVENTION (NO. 147) CONCERNING MINIMUM STANDARDS IN MERCHANT SHIPS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A CERTIFIED COPY OF THE CONVENTION (NO. 147) CONCERNING MINIMUM STANDARDS IN MERCHANT SHIPS, ADOPTED BY THE INTERNATIONAL LABOR CONFERENCE AT ITS 62D SESSION IN GENEVA ON OCTOBER 13, 1976

APRIL 11, 1986.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *April 10, 1986.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification of the Convention (No. 147) Concerning Minimum Standards in Merchant Ships, adopted by the 62nd session of the International Labor Conference, at Geneva, on October 13, 1976, I transmit herewith a certified copy of the Convention. I transmit also for the Senate's information a certified copy of the recommendation (No. 155) concerning the improvement of standards in merchant ships, adopted by the International Labor Conference at the same time as the Convention. No action is called for on the recommendation.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed. The Department's report also contains the texts of five proposed understandings. It is proposed that these understandings be included in the United States instrument of ratification, should the Senate give its advice and consent.

Adoption of the Convention and the recommendation was the culmination of a long negotiating process in which the United States participated actively and vigorously supported the drafting of a comprehensive and effective instrument to achieve minimum standards in merchant ships. I believe that the United States ratification of this Convention is in the national interest and in the interest of the world community as a whole, and I, therefore, recommend that the Senate give its advice and consent to ratification, subject to the understandings mentioned above.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, March 20, 1986.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with the recommendation that it be transmitted to the Senate for advice and consent to ratification, a certified copy of the Convention (No. 147) Concerning Minimum Standards in Merchant Ships, adopted by the International Labor Conference at its 62nd Session in Geneva on October 13, 1976. A certified copy of a recommendation (No. 155) concerning the improvement of standards in merchant ships, also adopted at the 62nd Session of the International Labor Conference, is enclosed for the information of the Senate.

The provisions of the Convention are described in the attached letter, dated December 30, 1985, from the Secretary of Labor. The purpose of the Convention, in general, is to improve employment conditions in merchant ships and to expand the ability of "port states" that are party to the Convention to take steps to protect the health and safety of seamen manning merchant vessels calling in those states parties. Five understandings designed to clarify portions of the text of the Convention as they relate to the domestic law of the United States, proposed for inclusion in the United States instrument of ratification, are discussed in the Secretary of Labor's letter. They are as follows:

(1) It is the understanding of the United States that its obligations under Article 1 of this Convention do not extend to uninspected ships, including tugboats, of less than 300 tons.

(2) It is the understanding of the United States that Article 1, paragraph 4(b) of the Convention including fish processing vessels of not more than 5,000 tons and fish tender vessels of not more than 500 tons as ships engaged in fishing or in whaling or in similar pursuits.

(3) It is the understanding of the United States that the term "substantially equivalent" as it appears in Article 2(a) requires the ratifying state to take account of the general goal of the instruments in the Appendix, but does not require it to adhere to the precise terms of these instruments. This means that national laws and regulations may be different in detail, if the ratifying state has satisfied itself that the general goals of the instruments in the Appendix are respected.

(4) The United States Government understands and is satisfied, as required under Article 2(a) of the Convention, that the substantive provisions of United States statutes and regula-

tions are substantially equivalent to the rights and responsibilities established in the instruments enumerated in the Appendix.

(5) It is the understanding of the United States that the legal status of the terms of collective bargaining agreements relating to shipboard conditions of employment and living arrangements have no greater effect than that accorded such terms under United States labor statutes.

The Departments of Labor, Commerce and Transportation support the Convention, and the President's Committee on the International Labor Organization recommends ratification, subject to the understandings set out above.

Respectfully submitted,

GEORGE P. SHULTZ.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, December 30, 1985.

Hon. GEORGE P. SHULTZ,
Secretary of State, Washington, DC.

DEAR GEORGE: This letter will express to you the coordinated view of the interested departments and agencies with respect to International Labor Organization Convention No. 147 concerning Minimum Standards in Merchant Ships and Recommendation No. 155 concerning the Improvement of Standards in Merchant Ships, both of which were adopted at the 62nd Session of the International Labor Conference on October 13, 1976.

The coordinated view with regard to these instruments was reached after due consideration of their provisions by the Departments of Labor, Commerce and Transportation. Representatives of the Department of State were consulted in connection with the formulation of this view. In addition, members of the President's Committee on the International Labor Organization, which includes worker and employer representatives, were consulted and support ratification of this Convention.

The Convention was adopted by the Conference by a vote of 160 for, none against, with 67 abstentions at its 62nd Session in October 1976. The United States Government, Worker, and Employer representatives voted for the Convention. The Recommendation was adopted by a vote of 211 for, none against, with 15 abstentions. The United States Government, Worker, and Employer representatives voted for the Recommendation.

Adoption of the Convention and Recommendation by the International Labor Conference was the culmination of a long negotiating process. Throughout this process, the United States was an active participant and a vigorous supporter of a comprehensive and effective instrument to achieve minimum standards in merchant ships.

There follows in Part I a summary of the provisions of the Convention and of the Recommendation. Part II sets forth an analysis of conformity of United States law with the Convention. Part II also analyzes those areas of concern which have been raised as to how the Convention will comport with the laws of the United States. In order to resolve such concerns, we have submitted understandings to the Convention which specifically address these areas of concern. Finally, Part III contains the coordinated view of the interested departments and agencies that the Convention be submitted to the President with the recommendation that it be transmitted to the Senate for advice and consent to ratification and that the Recommendation be enclosed for transmission to the Senate for such action as may be appropriate.

I

Article 1 provides that the Convention applies to all privately and publicly owned sea-going ships and tugs engaged in the commercial transport of cargo or passengers. National laws or regulations determine whether ships are "sea-going"; however, Article 1 specifies that the Convention does not apply to sailboats, fishing boats, small vessels, and oil rigs and drilling platforms when not engaged in navigation. Whether vessels come within these latter two exceptions to coverage is to be determined by the competent authorities of each ratifying state.

Under Article 2, a ratifying state must have laws and regulations for and exercise effective jurisdiction over ships registered under its flag concerning: (1) safety standards on ships, including standards of competency, hours of work, and manning; (2) appropriate social security measures; and (3) shipboard conditions of employment and living arrangements to the extent these are not covered by collective bargaining agreements or determined by the courts. These laws and regulations should be "substantially equivalent" to the International Labor Organization Conventions listed in the Appendix. These Conventions concern minimum age for employment at sea, shipowners' liability for sick and injured seamen, seamen's sickness benefits and medical care, medical examination of seafarers, prevention of accidents at sea, accommodation of crews, food and catering for ships' crews, officers' competency certificates, seamen's articles of agreement, repatriation of seamen, freedom of association, and the right to organize and bargain collectively. In matters involving other shipboard conditions of employment over which a ratifying state has no effective jurisdiction, the state must satisfy itself that measures for their effective control are agreed to by shipowners' and seafarers' organizations, constituted on the basis of freedom of association and the right to organize and bargain collectively. A ratifying state must verify that ships registered in its territory comply with the laws and regulations required by Article 2 of the Convention and as may be appropriate under national law with applicable collective bargaining agreements.

In addition, under Article 2, the ratifying state must ensure, after consultation with labor and employer organizations, that adequate grievance procedures exist for the investigation of complaints involving the hiring of seafarers of its own nationality on ships registered in a foreign country when the ship is in the state's territory, and for complaints regarding the hiring of foreign seafarers in its territory on ships registered in a foreign country, and for the reporting of such complaints to the competent authority in the country in which the ship is registered. The ratifying state must also ensure that seafarers employed on its flag ships be properly qualified or trained, verify that ships registered in its territory adhere to the International Labor Organization Conventions in force which it has ratified, and hold official inquiries into any serious marine casualty involving ships registered in its territory.

Article 3 directs a ratifying state, insofar as practicable, to advise nationals of the possible problems of signing on board a ship registered in a state which has not ratified Convention 147 until it is

satisfied that standards equivalent to those fixed by the Convention are being applied.

Article 4 contains the "port control" provisions of the Convention. If a ratifying state receives a complaint or obtains evidence that a ship in its port does not conform to the standards of the Convention, it may report the matter to the government of the country in which the ship is registered and take measures necessary to rectify any conditions on board which are "clearly hazardous to safety and health." In taking the latter action, the port authority will attempt to have a representative of the flag state present and will not unnecessarily detain or delay the ship. Under Article 4, a "complaint" is defined as "information submitted by a member of the crew . . . or . . . any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew."

Under Article 5, the Convention is open to the ratification of International Labor Organization members who are parties to, or who undertake to fullfill the requirements of, the International Maritime Organization Conventions on Safety of Life at Sea, Load Lines, and Preventing Collisions at Sea.

Articles 6 through 12 are the final clauses of Convention No. 147.

The Recommendation provides guidelines to International Labor Organization members for the attainment, by stages if necessary, of additional standards for the same ships to which the Convention applies. The additional standards include seafarers' paid vocations, social security, vocational training, workers' representation, and the IMCO/ILO Document for Guidance, 1975.

II

The following is an analysis of United States law that conforms to the Convention Concerning Minimum Standards in Merchant Ships, as well as an explanation of the proposed understandings to the Convention which address areas of concern as to how the Convention will comport with the laws of the United States.

ARTICLE 1—APPLICATION

In the United States, the matters contained in these instruments are regulated by federal laws and regulations. Most of the laws of the United States relating to publicly and privately owned seagoing ships and tugboats engaged in the commercial transportation of cargo and passengers are consolidated under Title 46, Subtitle II, United States Code (U.S.C.), "Shipping" (Public Law 98-89, August 26, 1983) and portions of uncodified Title 46 APP. United States Code. These laws and the regulations developed thereunder, among other things, cover licensing of merchant marine personnel; load lines; passenger vessels; manning of vessels; nautical schools; lifesaving equipment; and fire protection requirements. The regulations are codified at 46 Code of Federal Regulations (CFR), Chapter 1, Parts 1-199.

ARTICLE 2—MINIMUM STANDARDS

The shipping laws and regulations apply to sea-going vessels registered in the United States and require, among other things, compliance with certain minimum safety standards. If a ship is inspected and found to be violating an established safety standard, the United States Coast Guard may order the master or owner of the ship to make the necessary repairs or changes in order to conform with established safety standards. Under the shipping laws, inspected vessels are required to have a structure suitable for the service in which they are to be employed; to be equipped with proper lifesaving, fire prevention and firefighting equipment; to have suitable accommodations for crew and passengers; and to comply with other applicable marine safety laws and regulations.

Under the Department of Transportation Act (Pub. L. 97-449, 96 Stat. 2413, 49 U.S.C. § 101, *et seq.*) and through delegation by the Secretary of Transportation, the Commandant, United States Coast Guard, has authority for administering and interpreting requirements regarding the competency of officers, the hours of work and the manning of inspected vessels. The regulations which set forth minimum requirements for establishing and certifying the competency of officers, for setting standards on hours of work and for manning aboard inspected vessels are codified at 46 C.F.R. Parts 10 and 157. The standards regarding competency of officers are in substantial compliance with the terms of the International Labor Organization Officers' Competency Certificates Convention, 1936 (No. 53), to which the United States is a party.

United States laws also provide Social Security protections for seafarers. The Social Security Act, 42 U.S.C. § 301, *et seq.*, provides for disability and retirement benefits that seafarers may be eligible for if they meet certain requirements regarding minimum contributions to the Social Security system. Social Security measures apply to all seamen under a contract of service the performance of which is aboard American vessels as long as, during the performance of services, the vessel touches port in the United States, if the employee is employed on and in connection with such vessel when outside the United States. The Social Security Act does not apply to those services performed by an individual on a vesse! that is not an American vessel if the individual is employed on and in connection with the vessel when outside the United States and the individual is not a United States citizen or the employer is not an American employer. The term "American Vessel" under the Social Security Act means any vessel documented or numbered under the laws of the United States, and includes any vessel which is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or any State. Under this definition, the Social Security Act applies to seafarers aboard those ships that are covered by the Convention.

The laws and regulations which address shipboard conditions of employment aboard vessels operating in the United States include the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201,

et seq., which provides, among other things, for protections regarding minimum wage and the minimum age for working. The laws and regulations addressing the minimum age for working are in substantial compliance with the International Labor Organization Minimum Age (Sea) Convention (Revised), 1936, No. 58, to which the United States is a party.

The Coast Guard also administers laws governing certain shipboard conditions of employment and shipboard living arrangements. These laws are included in the shipping statute, 46 U.S.C., Subtitle II, and the regulations developed thereunder are codified at 46 C.F.R., Chapter 1, Parts 1–199.

Many seafarers in the United States have their conditions of employment determined pursuant to the terms of articles of agreements which are required by law and which often are expanded by agreements developed by seamen's unions and shipping companies. The workers aboard vessels registered in the United States are free to organize and bargain collectively under protection of United States labor laws. The National Labor Relations Act, 29 U.S.C. § 151, *et seq.*, protects the right of workers in the United States to organize and bargain collectively. Disputes over compliance with statutory articles of agreement or over collective bargaining agreements may, under certain circumstances, be raised with appropriate federal agencies such as the National Labor Relations Board or the Coast Guard.

A review of labor-management contracts covering seafarers confirms that on ships where seamen are represented by labor organizations measures for the effective control of the shipboard conditions of employment are agreed to between the shipowners and the seafarers' organizations. These agreements address, among other things, the medical examination of seafarers, accommodation of crews, food and catering for ships' crews, and seamen's employment under the terms of the articles of agreement. The Coast Guard has authority to review disputes between seafarers and shipowners if they involve questions of compliance with Coast Guard standards.

The Coast Guard conducts examinations which are available to verify that the seafarers employed on flag vessels of the United States are properly qualified and trained. The Coast Guard examines licensed individuals and rated seamen before those seafarers may obtain merchant mariner's documents. These seafarers must also meet service requirements which can in part be obtained at approved nautical schools. This includes training aboard a ship and/or at a certified nautical school.

Under the Safety of Life at Sea Convention, the Coast Guard may investigate complaints regarding violations of provisions of the convention. These provisions deal mostly with construction and equipment requirements. The Coast Guard's procedures regarding complaints allow for notification of appropriate representatives of the flag country when safety violations are found aboard a vessel. Any questions regarding whether foreign flag ships comply with International Labor Organization Conventions in force in the United States may be raised with the appropriate federal agency which is responsible for the subject of the Convention in question.

The Coast Guard has established procedures for conducting official inquiries into any serious marine casualty involving flag vessels of the United States, or foreign flag vessels in the territorial waters of the United States.

ARTICLE 3—NOTIFICATION

The Departments of Labor or State will respond to inquiries regarding whether the foreign flag ships are from countries that comply with the protections of Convention 147. The Coast Guard may respond to inquiries regarding whether a foreign flag ship is registered in a country which is party to international safety treaties to which the United States is a party. In addition, the seafarers' organizations provide information on the problems of signing on board ships of countries that do not comply with the protections of Convention 147. Individual workers, however, are free to seek work aboard ships that are willing to hire them without contacting agencies of the United States or seafarers' organizations for advice on the problems aboard ships registered in non-signatory countries.

ARTICLE 4—PORT CONTROL

Under domestic shipping laws, the United States Coast Guard has authority to investigate any complaint regarding conditions on a seagoing U.S. ship that are hazardous to safety and health. Complaints involving foreign flag ships and regarding matters covered by the Safety of Life at Sea Convention (SOLAS) may be investigated by the Coast Guard. The Coast Guard may contact representatives of the flag country. Such representative may be present when the investigation of the vessel is conducted. Complaints involving ships or matters not covered by SOLAS may be referred to the Department of Labor for investigation or for referral to the agency responsible for the matters raised in the complaint.

ARTICLE 5—RATIFICATION

The United States is a party to the International Maritime Organization Conventions on Safety of Life at Sea, Load Lines, and Preventing Collisions at Sea and under this instrument can initiate procedures for ratification of Convention 147.

ARTICLES 6–12

The final clauses do not give rise to questions of conformity with United States law.

A review of domestic law has shown that there are a few areas where understandings may be drafted to clarify potential inconsistencies between laws of the United States and the Convention. The first item that may be the subject of an understanding deals with the Convention's application to sea-going ships, especially the provision regarding sea-going tugs. Article 1, paragraphs 1 and 3 state that this Convention applies to sea-going ships including tugs. However, paragraph 2 indicates that national laws or regulations shall determine when ships shall be regarded as "sea-going ships" for purposes of this Convention. Under United States law (at 46 U.S.C., Subtitle II) motor vessels of over 300 gross tons which go beyond

the "boundary line" shall be considered "sea-going motor vessels" for purposes of the statute's inspection requirements. The "boundary line" referred to in this law is drawn from an 1895 law (33 U.S.C. § 151) which authorizes the Coast Guard to create a line that is up to twelve miles off the coastline of the United States. If a motor vessel operates beyond the "boundary line", unless it is otherwise exempted by statute, it is considered a sea-going motor vessel for purposes of certain inspection provisions.

Under this law, certain ships, including tugboats, of under 300 tons, unless inspected as a vessel carrying freight or passengers for hire, are not "sea-going motor vessels" and are exempt from inspection requirements. The exemption may be regarded by some as being in conflict with the Convention's provision that sea-going tugs shall be covered. As stated above, however, the Convention provides that only those ships which are considered "sea-going ships" by a nation's laws or regulations were intended to be covered. The laws and regulations of the United States do not regard ships, including tugboats, of under 300 gross tons as "sea-going motor vessels." Accordingly, it would be appropriate for an understanding to be submitted with the ratifying instruments which indicates that the United States would not regard its obligation under this provision of the Convention to extend to uninspected ships, including tugboats, of less than 300 tons. In this regard, it is proposed that the following language be used:

> (1) It is the understanding of the United States that its obligations under Article 1 of this Convention do not extend to uninspected ships, including tugboats, of less than 300 tons.

The second item which may be the subject of an understanding is the Convention's provision, at Article 1, paragraph 4(b), which exempts from coverage ships engaged in fishing or in whaling or in similar pursuits. A question has arisen on whether fish processing and fish tender vessels, which receive and process fish caught by other vessels or supply fish vessels, may properly be exempted under this provision. If they do not qualify, there may be a conflict with United States law that exempts from inspection certain fish processing and tender vessels. Our review of the Convention indicates, however, that fish processing and tender ships could be included in the exemption as ships engaged in "similar pursuits". Since the question arose, however, it is felt that an understanding should be included with the ratifying instruments to clarify the United States' position on this issue. Accordingly, it is proposed that the following language be used:

> (2) It is the understanding of the United States that Article 1, paragraph 4(b) of the Convention includes fish processing vessels of not more than 5000 tons and fish tender vessels of not more than 500 tons as ships engaged in fishing or in whaling or in similar pursuits.

The third item that may be the subject of an understanding addresses concerns regarding Article 2(a) and the meaning of the words "substantially equivalent". The Convention states that ratifying members should satisfy themselves that the laws and regula-

tions laying down the minimum standards are "substantially equivalent" to the conventions listed in the Appendix to Convention 147. Concerns were raised because of uncertainty over the effect of the conventions listed in the Appendix on the laws of the United States.[1] The United States has ratified three of the fifteen conventions listed in the Appendix, the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55) and the Officers' Competency Certificates Convention, 1936 (No. 53). The United States has laws bringing into force the conventions it has ratified. In addition, however, there are a number of laws and regulations in the United States that establish standards which are substantially equivalent to those sought in the other 12 conventions listed in the Appendix. These include State Department rules on the repatriation of seamen; Coast Guard regulations on the medical examination of licensed and rated seafarers, setting minimum standards for accommodations and for food and catering for ships' crews; regulations establishing safety standards for ships; and United States labor laws protecting workers' rights to organize and engage in collective bargaining. Accordingly, after consultation with the worker and employer representatives, the following understandings are requested to be included with the ratifying instruments:

> (3) It is the understanding of the United States that the term "substantially equivalent" as it appears in Article 2(a) requires the ratifying state to take account of the general goal of the instruments in the Appendix, but does not require it to adhere to the precise terms of these instruments. This means that national laws and regulations may be different in detail, if the ratifying state has satisfied itself that the general goals of the instruments in the Appendix are respected.
>
> (4) The United States Government understands and is satisfied, as required under Article 2(a) of the Convention, that the substantive provisions of United States statutes and regulations are substantially equivalent to the rights and responsibilities established in the instruments enumerated in the Appendix.

The final item that is the subject of an understanding addresses the concern that, under Article 2(a)(iii) of the Convention, collective bargaining agreements may be interpreted to have the same status

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[1] Minimum Age Convention, 1973, (No. 138), or
Minimum Age (Sea) Convention (Revised), 1936 (No. 58), or
Minimum Age (Sea) Convention, 1920 (No. 7);
Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), or
Sickness Insurance (Sea) Convention, 1936 (No. 56), or
Medical Care and Sickness Benefits Convention, 1969 (No. 130);
Medical Examination (Seafarers) Convention, 1946 (No. 73);
Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7);
Accommodation of Crews Convention (Revised), 1949 (No. 92);
Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);
Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4);
Seamen's Articles of Agreement Convention, 1926 (No. 22);
Repatriation of Seamen Convention, 1926 (No. 23);
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

as laws or regulations regarding "shipboard conditions of employment." If this were so, then the terms of collective bargaining agreements might be given greater effect than normally provided for by labor statutes of the United States. An understanding would make clear that the terms of collective bargaining agreements relating to shipboard conditions of employment have no greater legal effect than that accorded such terms under domestic labor statutes. The following understanding is requested to be included with the ratifying instruments:

> (5) It is the understanding of the United States that the legal status of the terms of collective bargaining agreements relating to shipboard conditions of employment and living arrangements have no greater effect than that accorded such terms under United States labor statutes.

The United States, as a member of the International Labor Organization, is required under Article 19 of the Constitution of that Organization to bring each convention and recommendation adopted by the International Labor Conference "before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action." It is the view of the interested departments and agencies that the matters dealt with in the Convention and Recommendation are appropriate under our constitutional system for action by the federal government. It is our recommendation, therefore, that pursuant to the obligations of the United States Government under paragraph 7(a) of Article 19 of the Constituion of the International Labor Organization, the President transmit Convention No. 147 to the Senate with a request for the advice and consent of that body to its ratification. It is also our view that present United States legislation, regulations and industry practice bring us into compliance with the obligations of the Convention and that any further implementation of the policy to be pursued under the Convention is a matter of domestic determination, as provided for in the terms of the Convention. It is our further recommendation that pursuant to the obligations of the United States Government under paragraph 7(a) of Article 19 of the Constitution of the International Labor Organization, the Department of State should transmit Recommendation No. 155 to the Congress advising that it is appropriate for action by the federal government. However, because numerous measures have been enacted providing for the improvement of standards in merchant ships consistent with the objectives of the Recommendation, we are not at this time making recommendations to Congress for legislation in connection with this instrument. The Recommendation is thus being transmitted to the Congress for its information and for such action as it may deem appropriate.

Although Congress has plenary power with respect to the territories and possessions of the United States, the governments of these territories and possessions enjoy varying self-governing powers. It is the coordinated view that, in accordance with Article 35 of the Constitution of the International Labor Organization, the Convention and the Recommendation should be transmitted by the Secretary of the Interior to those jurisdictions for such action as they may deem appropriate.

The Departments of Labor, Commerce and Transportation concur with this recommendation and support the Convention and the Recommendation. The Convention Concerning Minimum Standards in Merchant Ships is a significant accomplishment of the International Labor Organization system and an important advance in the development of international maritime law. The adherence of the United States to this Convention is in the national interest and in the interest of the world community. It is recommended that the Convention be transmitted to the President for submission to the Senate for its full consideration and with the statement that the President's Committee on the International Labor Organization supports its ratification.

Very truly yours,

WILLIAM E. BROCK.

International Labour Conference
Conférence internationale du Travail

CONVENTION 147

CONVENTION CONCERNING MINIMUM
STANDARDS IN MERCHANT SHIPS,
ADOPTED BY THE CONFERENCE AT ITS SIXTY-SECOND SESSION,
GENEVA, 29 OCTOBER 1976

CONVENTION 147

CONVENTION CONCERNANT LES NORMES
MINIMA A OBSERVER SUR LES NAVIRES MARCHANDS,
ADOPTÉE PAR LA CONFÉRENCE A SA SOIXANTE-DEUXIÈME SESSION,
GENÈVE, 29 OCTOBRE 1976

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

(1)

Convention 147

CONVENTION CONCERNING MINIMUM STANDARDS IN MERCHANT SHIPS

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-second Session on 13 October 1976, and

Recalling the provisions of the Seafarers' Engagement (Foreign Vessels) Recommendation, 1958, and of the Social Conditions and Safety (Seafarers) Recommendation, 1958, and

Having decided upon the adoption of certain proposals with regard to substandard vessels, particularly those registered under flags of convenience, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-ninth day of October of the year one thousand nine hundred and seventy-six the following Convention, which may be cited as the Merchant Shipping (Minimum Standards) Convention, 1976:

Article 1

1. Except as otherwise provided in this Article, this Convention applies to every sea-going ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose.

2. National laws or regulations shall determine when ships are to be regarded as sea-going ships for the purpose of this Convention.

3. This Convention applies to sea-going tugs.

4. This Convention does not apply to—

(a) ships primarily propelled by sail, whether or not they are fitted with auxiliary engines;

(b) ships engaged in fishing or in whaling or in similar pursuits;

(c) small vessels and vessels such as oil rigs and drilling platforms when not engaged in navigation, the decision as to which vessels are covered by this subparagraph to be taken by the competent authority in each country in consultation with the most representative organisations of shipowners and seafarers.

5. Nothing in this Convention shall be deemed to extend the scope of the Conventions referred to in the Appendix to this Convention or of the provisions contained therein.

Article 2

Each Member which ratifies this Convention undertakes—

(a) to have laws or regulations laying down, for ships registered in its territory—

(i) safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship;

(ii) appropriate social security measures; and

CONVENTION CONCERNANT LES NORMES MINIMA A OBSERVER SUR LES NAVIRES MARCHANDS

La Conférence générale de l'Organisation internationale du Travail,

Convoquée à Genève par le Conseil d'administration du Bureau international du Travail, et s'y étant réunie le 13 octobre 1976, en sa soixante-deuxième session;

Rappelant les dispositions de la recommandation sur l'engagement des gens de mer (navires étrangers), 1958, et de la recommandation sur les conditions de vie, de travail et de sécurité des gens de mer, 1958;

Après avoir décidé d'adopter diverses propositions relatives aux navires où prévalent des conditions inférieures aux normes, en particulier ceux immatriculés sous des pavillons de complaisance, question qui constitue le cinquième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une convention internationale,

adopte, ce vingt-neuvième jour d'octobre mil neuf cent soixante-seize, la convention ci-après, qui sera dénommée Convention sur la marine marchande (normes minima), 1976:

Article 1

1. Sous réserve des dispositions contraires figurant dans le présent article, la présente convention s'applique à tout navire de mer, de propriété publique ou privée, affecté, pour des fins commerciales, au transport de marchandises ou de passagers ou utilisé à d'autres fins commerciales.

2. La législation nationale déterminera quand un navire sera réputé navire de mer aux fins de la présente convention.

3. La présente convention s'applique aux remorqueurs de mer.

4. La présente convention ne s'applique pas:

a) aux navires dont la voile est le principal moyen de propulsion, qu'ils soient ou non équipés d'une machine auxiliaire;

b) aux navires affectés à la pêche, à la chasse à la baleine ou à des opérations similaires;

c) aux navires de faible tonnage ni aux navires tels que les plates-formes de forage et d'exploitation quand ils ne sont pas utilisés pour la navigation; la décision relative aux navires qui sont visés par la présente disposition sera prise par l'autorité compétente de chaque pays, en consultation avec les organisations les plus représentatives des armateurs et des gens de mer.

5. Aucune disposition de la présente convention ne devra être considérée comme étendant le champ d'application des conventions énumérées dans l'annexe à la présente convention ou d'aucune des dispositions de celles-ci.

Article 2

Tout Membre qui ratifie la présente convention s'engage:

a) à édicter une législation à l'égard des navires immatriculés sur son territoire en ce qui concerne:

i) les normes de sécurité, y compris celles ayant trait à la compétence de l'équipage, à la durée du travail et à son effectif, afin d'assurer la sauvegarde de la vie humaine à bord des navires;

ii) un régime approprié de sécurité sociale;

(iii) shipboard conditions of employment and shipboard living arrangements, in so far as these, in the opinion of the Member, are not covered by collective agreements or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;

and to satisfy itself that the provisions of such laws and regulations are substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to this Convention, in so far as the Member is not otherwise bound to give effect to the Conventions in question;

(b) to exercise effective jurisdiction or control over ships which are registered in its territory in respect of—

(i) safety standards, including standards of competency, hours of work and manning, prescribed by national laws or regulations;

(ii) social security measures prescribed by national laws or regulations;

(iii) shipboard conditions of employment and shipboard living arrangements prescribed by national laws or regulations, or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned;

(c) to satisfy itself that measures for the effective control of other shipboard conditions of employment and living arrangements, where it has no effective jurisdiction, are agreed between shipowners or their organisations and seafarers' organisations constituted in accordance with the substantive provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949;

(d) to ensure that—

(i) adequate procedures—subject to over-all supervision by the competent authority, after tripartite consultation amongst that authority and the representative organisations of shipowners and seafarers where appropriate—exist for the engagement of seafarers on ships registered in its territory and for the investigation of complaints arising in that connection;

(ii) adequate procedures—subject to over-all supervision by the competent authority, after tripartite consultation amongst that authority and the representative organisations of shipowners and seafarers where appropriate—exist for the investigation of any complaint made in connection with and, if possible, at the time of the engagement in its territory of seafarers of its own nationality on ships registered in a foreign country, and that such complaint as well as any complaint made in connection with and, if possible, at the time of the engagement in its territory of foreign seafarers on ships registered in a foreign country, is promptly reported by its competent authority to the competent authority of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office;

(e) to ensure that seafarers employed on ships registered in its territory are properly qualified or trained for the duties for which they are engaged, due regard being had to the Vocational Training (Seafarers) Recommendation, 1970;

(f) to verify by inspection or other appropriate means that ships registered in its territory comply with applicable international labour Conventions in force which it has ratified, with the laws and regulations required by subparagraph *(a)* of this Article and, as may be appropriate under national law, with applicable collective agreements;

(g) to hold an official inquiry into any serious marine casualty involving ships registered in its territory, particularly those involving injury and/or loss of life, the final report of such inquiry normally to be made public.

iii) les conditions d'emploi à bord et les arrangements relatifs à la vie à bord, dans la mesure où, à son avis, ils ne sont pas couverts par des conventions collectives ou déterminés par des tribunaux compétents d'une façon qui lie de la même manière les armateurs et les gens de mer intéressés;

et à vérifier que les dispositions d'une telle législation équivalent, dans l'ensemble, aux conventions ou aux articles de conventions auxquels il est fait référence dans l'annexe à la présente convention, pour autant que le Membre ne soit pas autrement tenu de donner effet aux conventions en question;

b) à exercer effectivement sa juridiction ou son contrôle sur les navires immatriculés sur son territoire en ce qui concerne:

i) les normes de sécurité, y compris celles ayant trait à la compétence de l'équipage, à la durée du travail et à son effectif, prescrites par la législation nationale;

ii) la mise en œuvre du régime de sécurité sociale prescrit par la législation nationale;

iii) les conditions d'emploi à bord et les arrangements relatifs à la vie à bord prescrits par la législation nationale ou déterminés par des tribunaux compétents d'une façon qui lie de la même manière les armateurs et les gens de mer intéressés;

c) à vérifier que des mesures assurant un contrôle efficace des autres conditions d'emploi à bord et des autres arrangements relatifs à la vie à bord sont, lorsque le Membre n'exerce pas de juridiction effective, convenus entre les armateurs ou leurs organisations et des organisations de gens de mer constituées conformément aux dispositions fondamentales de la convention sur la liberté syndicale et la protection du droit syndical, 1948, et de la convention sur le droit d'organisation et de négociation collective, 1949;

d) à faire en sorte

i) qu'il existe des procédures adéquates, soumises à la supervision générale de l'autorité compétente et faisant suite, le cas échéant, à des consultations tripartites entre cette autorité et les organisations représentatives d'armateurs et de gens de mer, concernant le recrutement des gens de mer sur des navires immatriculés sur son territoire et concernant l'examen des plaintes déposées à ce sujet;

ii) qu'il existe des procédures adéquates, soumises à la supervision générale de l'autorité compétente faisant suite, le cas échéant, à des consultations tripartites entre cette autorité et les organisations représentatives d'armateurs et de gens de mer concernant l'examen de toute plainte relative à l'engagement et formulée si possible au moment de l'engagement, sur son territoire, de gens de mer de sa propre nationalité sur des navires immatriculés dans un pays étranger et à s'assurer que de telles plaintes, ainsi que toute plainte relative à l'engagement et formulée si possible au moment de l'engagement, sur son territoire, de gens de mer étrangers sur des navires immatriculés dans un pays étranger, soient transmises promptement par l'autorité compétente à l'autorité compétente du pays dans lequel le navire est immatriculé, avec copie au Directeur général du Bureau international du Travail;

e) à faire en sorte que les gens de mer engagés sur des navires immatriculés sur son territoire soient convenablement qualifiés ou formés aux fonctions pour lesquelles ils sont recrutés, compte tenu de la recommandation sur la formation professionnelle des gens de mer, 1970;

f) à vérifier par des inspections ou par d'autres moyens appropriés que les navires immatriculés sur son territoire sont conformes aux conventions internationales du travail applicables en vigueur qu'il a ratifiées, à la législation requise par l'alinéa *a)* du présent article et, dans la mesure où, compte tenu de la législation nationale, on le considère approprié, aux conventions collectives;

g) à faire une enquête officielle sur tous les accidents maritimes graves impliquant des navires immatriculés sur son territoire, notamment lorsqu'il y a eu blessure ou perte de vie humaine, le rapport final de cette enquête devant normalement être rendu public.

Article 3

Any Member which has ratified this Convention shall, in so far as practicable, advise its nationals on the possible problems of signing on a ship registered in a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by this Convention are being applied. Measures taken by the ratifying State to this effect shall not be in contradiction with the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

Article 4

1. If a Member which has ratified this Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of this Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

2. In taking such measures, the Member shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State and shall, if possible, have such representative present. It shall not unreasonably detain or delay the ship.

3. For the purpose of this Article, " complaint " means information submitted by a member of the crew, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew.

Article 5

1. This Convention is open to the ratification of Members which—

(a) are parties to the International Convention for the Safety of Life at Sea, 1960, or the International Convention for the Safety of Life at Sea, 1974, or any Convention subsequently revising these Conventions; and

(b) are parties to the International Convention on Load Lines, 1966, or any Convention subsequently revising that Convention; and

(c) are parties to, or have implemented the provisions of, the Regulations for Preventing Collisions at Sea of 1960, or the Convention on the International Regulations for Preventing Collisions at Sea, 1972, or any Convention subsequently revising these international instruments.

2. This Convention is further open to the ratification of any Member which, on ratification, undertakes to fulfil the requirements to which ratification is made subject by paragraph 1 of this Article and which are not yet satisfied.

3. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which there have been registered ratifications by at least ten Members with a total share in world shipping gross tonnage of 25 per cent.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 3

Tout Membre qui a ratifié la présente convention informera, dans la mesure du possible, ses ressortissants des problèmes qui peuvent résulter d'un engagement sur un navire immatriculé dans un Etat qui n'a pas ratifié ladite convention, jusqu'à ce qu'il ait acquis la conviction que des normes équivalentes à celles fixées par cette convention sont appliquées. Les mesures prises à cet effet par l'Etat qui ratifie la présente convention ne devront pas être en contradiction avec le principe de libre circulation des travailleurs stipulé par les traités auxquels ces deux Etats peuvent être parties.

Article 4

1. Si un Membre qui a ratifié la présente convention et dans le port duquel un navire fait escale dans le cours normal de son activité ou pour une raison inhérente à son exploitation, reçoit une plainte ou acquiert la preuve que ce navire n'est pas conforme aux normes figurant dans la présente convention, après que celle-ci sera entrée en vigueur, il peut adresser un rapport au gouvernement du pays dans lequel est immatriculé le navire, avec copie au Directeur général du Bureau international du Travail et prendre les mesures nécessaires pour redresser toute situation à bord qui constitue clairement un danger pour la sécurité ou la santé.

2. En prenant de telles mesures, le Membre devra en informer immédiatement le plus proche représentant maritime, consulaire ou diplomatique de l'Etat du pavillon et demander à ce représentant d'être présent si possible. Il ne devra pas retenir ou retarder indûment le navire.

3. Aux fins du présent article, on entend par « plainte » toute information soumise par un membre de l'équipage, un organisme professionnel, une association, un syndicat ou, de manière générale, toute personne ayant un intérêt à la sécurité du navire, y compris sous l'aspect des risques relatifs à la sécurité ou à la santé de son équipage.

Article 5

1. La présente convention est ouverte à la ratification des Membres qui sont parties aux instruments internationaux énumérés ci-après ou, en ce qui concerne ceux visés à l'alinéa *c)*, en ont mis en application les dispositions:

a) la convention internationale pour la sauvegarde de la vie humaine en mer, 1960, ou la convention internationale pour la sauvegarde de la vie humaine en mer, 1974, ou toute convention révisant ces deux conventions;

b) la convention internationale sur les lignes de charge, 1966, ou toute convention la révisant;

c) les règles internationales pour prévenir les abordages en mer de 1960, ou la convention sur les règles internationales pour prévenir les abordages en mer, 1972, ou toute convention révisant ces instruments internationaux.

2. La présente convention est en outre ouverte à la ratification de tout Membre qui s'engage, lors de ladite ratification, à satisfaire aux conditions auxquelles le paragraphe précédent subordonne la ratification et qu'il ne remplit pas encore.

3. Les ratifications formelles de la présente convention seront communiquées au Directeur général du Bureau international du Travail et par lui enregistrées.

Article 6

1. La présente convention ne liera que les Membres de l'Organisation internationale du Travail dont la ratification aura été enregistrée par le Directeur général.

2. Elle entrera en vigueur douze mois après la date à laquelle les ratifications d'au moins dix Membres ayant ensemble un tonnage brut de 25 pour cent de la flotte marchande mondiale auront été enregistrées.

3. Par la suite, cette convention entrera en vigueur pour chaque Membre douze mois après la date où sa ratification aura été enregistrée.

Article 7

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 8

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When the conditions provided for in Article 6, paragraph 2, above have been fulfilled, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 9

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 10

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 11

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 7 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 12

The English and French versions of the text of this Convention are equally authoritative.

APPENDIX

Minimum Age Convention, 1973 (No. 138), or
Minimum Age (Sea) Convention (Revised), 1936 (No. 58), or
Minimum Age (Sea) Convention, 1920 (No. 7);

Article 7

1. Tout Membre ayant ratifié la présente convention peut la dénoncer à l'expiration d'une période de dix années après la date de la mise en vigueur initiale de la convention, par un acte communiqué au Directeur général du Bureau international du Travail et par lui enregistré. La dénonciation ne prendra effet qu'une année après avoir été enregistrée.

2. Tout Membre ayant ratifié la présente convention qui, dans le délai d'une année après l'expiration de la période de dix années mentionnée au paragraphe précédent, ne fera pas usage de la faculté de dénonciation prévue par le présent article sera lié pour une nouvelle période de dix années et, par la suite, pourra dénoncer la présente convention à l'expiration de chaque période de dix années dans les conditions prévues au présent article.

Article 8

1. Le Directeur général du Bureau international du Travail notifiera à tous les Membres de l'Organisation internationale du Travail l'enregistrement de toutes les ratifications et dénonciations qui lui seront communiquées par les Membres de l'Organisation.

2. Quand les conditions énoncées à l'article 6, paragraphe 2, ci-dessus, auront été remplies, le Directeur général appellera l'attention des Membres de l'Organisation sur la date à laquelle la présente convention entrera en vigueur.

Article 9

Le Directeur général du Bureau international du Travail communiquera au Secrétaire général des Nations Unies, aux fins d'enregistrement, conformément à l'article 102 de la Charte des Nations Unies, des renseignements complets au sujet de toutes ratifications et de tous actes de dénonciation qu'il aura enregistrés conformément aux articles précédents.

Article 10

Chaque fois qu'il le jugera nécessaire, le Conseil d'administration du Bureau international du Travail présentera à la Conférence générale un rapport sur l'application de la présente convention et examinera s'il y a lieu d'inscrire à l'ordre du jour de la Conférence la question de sa révision totale ou partielle.

Article 11

1. Au cas où la Conférence adopterait une nouvelle convention portant révision totale ou partielle de la présente convention, et à moins que la nouvelle convention ne dispose autrement:

a) la ratification par un Membre de la nouvelle convention portant révision entraînerait de plein droit, nonobstant l'article 7 ci-dessus, dénonciation immédiate de la présente convention, sous réserve que la nouvelle convention portant révision soit entrée en vigueur;

b) à partir de la date de l'entrée en vigueur de la nouvelle convention portant révision, la présente convention cesserait d'être ouverte à la ratification des Membres.

2. La présente convention demeurerait en tout cas en vigueur dans sa forme et teneur pour les Membres qui l'auraient ratifiée et qui ne ratifieraient pas la convention portant révision.

Article 12

Les versions française et anglaise du texte de la présente convention font également foi.

ANNEXE

Convention (n° 138) sur l'âge minimum, 1973, ou convention (n° 58) sur l'âge minimum (travail maritime), (révisée), 1936, ou convention (n° 7) sur l'âge minimum (travail maritime), 1920;

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), or
Sickness Insurance (Sea) Convention, 1936 (No. 56), or
Medical Care and Sickness Benefits Convention, 1969 (No. 130);
Medical Examination (Seafarers) Convention, 1946 (No. 73);
Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7);
Accommodation of Crews Convention (Revised), 1949 (No. 92);
Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);

Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4)[1];
Seamen's Articles of Agreement Convention, 1926 (No. 22);
Repatriation of Seamen Convention, 1926 (No. 23);
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Sixty-second Session which was held at Geneva and declared closed the twenty-ninth day of October 1976.

IN FAITH WHEREOF we have appended our signatures this eleventh day of November 1976.

[1] In cases where the established licensing system or certification structure of a State would be prejudiced by problems arising from strict adherence to the relevant standards of the Officers' Competency Certificates Convention, 1936, the principle of substantial equivalence shall be applied so that there will be no conflict with that State's established arrangements for certification.

convention (n° 55) sur les obligations de l'armateur en cas de maladie ou d'accident des gens de mer, 1936, ou convention (n° 56) sur l'assurance-maladie des gens de mer, 1936, ou convention (n° 130) concernant les soins médicaux et les indemnités de maladie, 1969;

convention (n° 73) sur l'examen médical des gens de mer, 1946;

convention (n° 134) sur la prévention des accidents (gens de mer), 1970 (articles 4 et 7);

convention (n° 92) sur le logement des équipages (révisée), 1949;

convention (n° 68) sur l'alimentation et le service de table (équipage des navires), 1946 (article 5);

convention (n° 53) sur les brevets de capacité des officiers, 1936 (articles 3 et 4) [1];

convention (n° 22) sur le contrat d'engagement des marins, 1926;

convention (n° 23) sur le rapatriement des marins, 1926;

convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948;

convention (n° 98) sur le droit d'organisation et de négociation collective, 1949.

Le texte qui précède est le texte authentique de la convention dûment adoptée par la Conférence générale de l'Organisation internationale du Travail dans sa soixante-deuxième session qui s'est tenue à Genève et qui a été déclarée close le 29 octobre 1976:

EN FOI DE QUOI ont apposé leurs signatures, ce onzième jour de novembre 1976:

The President of the Conference,
Le Président de la Conférence,

MODOLV HAREIDE

The Director-General of the International Labour Office,
Le Directeur général du Bureau international du Travail,

FRANCIS BLANCHARD

[1] Au cas où le strict respect des normes pertinentes de la convention sur les brevets de capacité des officiers, 1936, poserait des problèmes susceptibles de porter préjudice aux systèmes et aux procédures établis par un Etat pour l'octroi des brevets de capacité, le principe d'équivalence d'ensemble s'appliquera afin qu'il n'y ait pas conflit avec les arrangements pris par cet Etat dans ce domaine.

The text of the Convention as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la convention présenté ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

for the Director-General of the International Labour Office :
pour le Directeur général du Bureau international du Travail :

International Labour Conference
Conférence internationale du Travail

RECOMMENDATION 155

RECOMMENDATION CONCERNING THE IMPROVEMENT
OF STANDARDS IN MERCHANT SHIPS,
ADOPTED BY THE CONFERENCE AT ITS SIXTY-SECOND SESSION,
GENEVA, 29 OCTOBER 1976

RECOMMANDATION 155

RECOMMANDATION CONCERNANT L'AMÉLIORATION
DES NORMES SUR LES NAVIRES MARCHANDS,
ADOPTÉE PAR LA CONFÉRENCE A SA SOIXANTE-DEUXIÈME SESSION,
GENÈVE, 29 OCTOBRE 1976

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

Recommendation 155

RECOMMENDATION CONCERNING THE IMPROVEMENT OF STANDARDS IN MERCHANT SHIPS

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-second Session on 13 October 1976, and

Having decided upon the adoption of certain proposals with regard to sub-standard vessels, particularly those registered under flags of convenience, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Merchant Shipping (Minimum Standards) Convention, 1976,

adopts this twenty-ninth day of October of the year one thousand nine hundred and seventy-six the following Recommendation, which may be cited as the Merchant Shipping (Improvement of Standards) Recommendation, 1976:

1. (1) Except as otherwise provided in this Paragraph, this Recommendation applies to every sea-going ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose.

(2) National laws or regulations should determine when ships are to be regarded as sea-going ships for the purpose of this Recommendation.

(3) This Recommendation applies to sea-going tugs.

(4) This Recommendation does not apply to—

(a) ships primarily propelled by sail, whether or not they are fitted with auxiliary engines;

(b) ships engaged in fishing or in whaling or in similar pursuits;

(c) small vessels and vessels such as oil-rigs and drilling platforms when not engaged in navigation, the decision as to which vessels are covered by this clause to be taken by the competent authority in each country in consultation with the most representative organisations of shipowners and seafarers.

(5) Nothing in this Recommendation should be deemed to extend the scope of the instruments referred to in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976, or in the Appendix to this Recommendation.

2. Members should—

(a) ensure that the provisions of the laws and regulations provided for in Article 2, subparagraph *(a)*, of the Merchant Shipping (Minimum Standards) Convention, 1976, and

(b) satisfy themselves that such provisions of collective agreements as deal with shipboard conditions of employment and shipboard living arrangements,

are at least equivalent to the Conventions or Articles of Conventions referred to in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976.

3. In addition, steps should be taken, by stages if necessary, with a view to such laws or regulations, or as appropriate collective agreements, containing provisions at least equivalent to the provisions of the instruments referred to in the Appendix to this Recommendation.

RECOMMANDATION CONCERNANT L'AMÉLIORATION DES NORMES SUR LES NAVIRES MARCHANDS

La Conférence générale de l'Organisation internationale du Travail,

Convoquée à Genève par le Conseil d'administration du Bureau international du Travail, et s'y étant réunie le 13 octobre 1976, en sa soixante-deuxième session;

Après avoir décidé d'adopter diverses propositions relatives aux navires où prévalent des conditions inférieures aux normes, en particulier ceux immatriculés sous des pavillons de complaisance, question qui constitue le cinquième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une recommandation complétant la convention sur la marine marchande (normes minima), 1976,

adopte, ce vingt-neuvième jour d'octobre mil neuf cent soixante-seize, la recommandation ci-après, qui sera dénommée Recommandation sur la marine marchande (amélioration des normes), 1976:

1. (1) Sous réserve des dispositions contraires figurant dans le présent paragraphe, la présente recommandation s'applique à tout navire de mer, de propriété publique ou privée, affecté, pour des fins commerciales, au transport de marchandises ou de passagers ou utilisé à d'autres fins commerciales.

(2) La législation nationale devrait déterminer quand un navire doit être réputé navire de mer aux fins de la présente recommandation.

(3) La présente recommandation s'applique aux remorqueurs de mer.

(4) La présente recommandation ne s'applique pas:

a) aux navires dont la voile est le principal moyen de propulsion, qu'ils soient ou non équipés d'une machine auxiliaire;

b) aux navires affectés à la pêche, à la chasse à la baleine ou à des opérations similaires;

c) aux navires de faible tonnage ni aux navires tels que les plates-formes de forage et d'exploitation quand ils ne sont pas utilisés pour la navigation; la décision relative aux navires qui sont visés par la présente disposition devrait être prise par l'autorité compétente de chaque pays, en consultation avec les organisations les plus représentatives des armateurs et des gens de mer.

(5) Aucune disposition de la présente recommandation ne doit être considérée comme étendant le champ d'application des instruments énumérés dans l'annexe à la convention sur la marine marchande (normes minima), 1976, ou dans l'annexe à la présente recommandation.

2. Les Membres devraient:

a) faire en sorte que les dispositions de la législation prévue à l'article 2, alinéa *a)*, de la convention sur la marine marchande (normes minima), 1976,

b) vérifier que les dispositions des conventions collectives qui régleraient les conditions d'emploi à bord et les arrangements relatifs à la vie à bord

équivalent au moins aux conventions ou aux articles de conventions auxquels il est fait référence dans l'annexe à la convention sur la marine marchande (normes minima), 1976.

3. En outre, des mesures devraient être prises, au besoin par étapes, afin que cette législation ou, le cas échéant, ces conventions collectives contiennent des dispositions au moins équivalentes aux dispositions des instruments énumérés dans l'annexe à la présente recommandation.

4. (1) Pending steps for such revision of the Merchant Shipping (Minimum Standards) Convention, 1976, as may become necessary in the light of changes in the circumstances and needs of merchant shipping, cognisance should be taken in the application of that Convention, after consultation with the most representative organisations of shipowners and seafarers, of any revision of individual Conventions referred to in the Appendix thereto that has come into force.

(2) Cognisance should be taken in the application of this Recommendation, after consultation with the most representative organisations of shipowners and seafarers, of any revision of individual Conventions referred to in the Appendix thereto that has come into force and of any revision of other instruments therein referred to that has been adopted.

APPENDIX

Officers' Competency Certificates Convention, 1936 (No. 53);
Food and Catering (Ships' Crews) Convention, 1946 (No. 68);
Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133);
Prevention of Accidents (Seafarers) Convention, 1970 (No. 134);
Workers' Representatives Convention, 1971 (No. 135);
Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91); or
Seafarers' Annual Leave Convention, 1976 (No. 146);
Social Security (Seafarers) Convention, 1946 (No. 70);
Vocational Training (Seafarers) Recommendation, 1970 (No. 137);
IMCO/ILO Document for Guidance, 1975.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organisation during its Sixty-second Session which was held at Geneva and declared closed the twenty-ninth day of October 1976.

IN FAITH WHEREOF we have appended our signatures this eleventh day of November 1976.

4. (1) En attendant que des mesures soient prises pour que la convention sur la marine marchande (normes minima), 1976, soit éventuellement révisée, compte tenu des modifications survenant dans les conditions d'exploitation et les besoins de la marine marchande, il y aurait lieu de prendre note dans l'application de cette convention, après consultation des organisations les plus représentatives des armateurs et des gens de mer, de toute révision des conventions énumérées dans l'annexe à ladite convention qui serait entrée en vigueur.

(2) Il y aurait lieu de prendre note dans l'application de la présente recommandation, après consultation des organisations les plus représentatives des armateurs et des gens de mer, de toute révision des conventions énumérées dans son annexe qui serait entrée en vigueur et de toute révision d'autres instruments énumérés dans cette annexe qui aurait été adoptée.

ANNEXE

Convention (n° 53) sur les brevets de capacité des officiers, 1936;
convention (n° 68) sur l'alimentation et le service de table (équipage des navires), 1946;
convention (n° 133) sur le logement des équipages (dispositions complémentaires), 1970;
convention (n° 134) sur la prévention des accidents (gens de mer), 1970;
convention (n° 135) concernant les représentants des travailleurs, 1971;
convention (n° 91) des congés payés des marins (révisée), 1949, ou convention (n° 146) sur les congés payés annuels (gens de mer), 1976;
convention (n° 70) sur la sécurité sociale des gens de mer, 1946;
recommandation (n° 137) sur la formation professionnelle des gens de mer, 1970;
document (OMCI/OIT) destiné à servir de guide, 1975.

Le texte qui précède est le texte authentique de la recommandation dûment adoptée par la Conférence générale de l'Organisation internationale du Travail dans sa soixante-deuxième session qui s'est tenue à Genève et qui a été déclarée close le 29 octobre 1976.

EN FOI DE QUOI ont apposé leurs signatures, ce onzième jour de novembre 1976:

The President of the Conference,
Le Président de la Conférence,

MODOLV HAREIDE

The Director-General of the International Labour Office,
Le Directeur général du Bureau international du Travail,

FRANCIS BLANCHARD

The text of the Recommendation as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte de la recommandation présenté ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

for the Director-General of the International Labour Office :
pour le Directeur général du Bureau international du Travail :

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